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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,231	09/12/2001	Claude Dreulle Maurice	EDV/MAE BET 01/0599	2580
466	7590	12/17/2004	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			CHANNEY, CAROL DIANE	
			ART UNIT	PAPER NUMBER
			1745	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/936,231

Applicant(s)

MAURICE ET AL.

Examiner

Carol Chaney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 8-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 8-16 and 20 is/are rejected.
- 7) ☒ Claim(s) 17 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Stone, US Patent 5,403,679 for reasons of record.

Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Stone, US Patent 5,403,679 for essentially the same reasons of record.

Stone discloses a box holding a plurality of batteries. (See Figure 1.) The box is a modular battery stack with a plurality of battery trays.

As shown in Figs. 2 and 3, the side walls (12) consist of an assembly of stacked modules (40), each having a pair of wall elements (38). These wall elements are mounted opposite each other. With regards to claim 10, each wall element has a folded edge, which combined with the bottom piece of the module above, forms a support for a row of batteries. With regards to claim 11, the battery includes retention means, (46) and (34). With regards to claim 12, posts (70) are removable rods, extending through the folded edges of the battery box.

U.S. Patent Apr. 4, 1995 Sheet 3 of 8 5,403,679

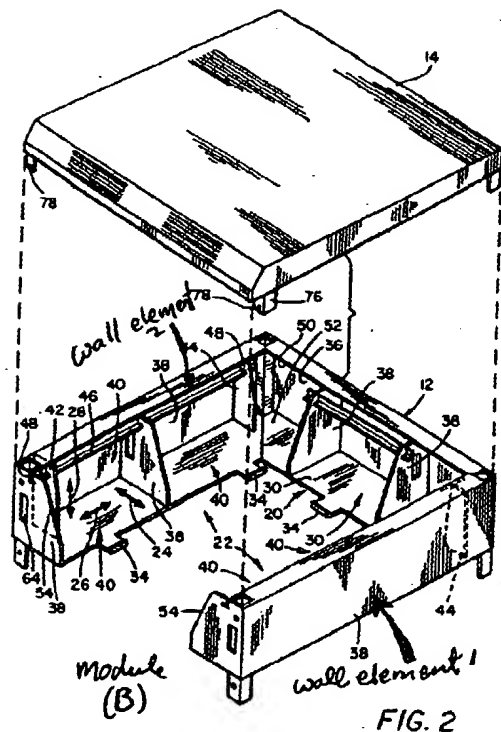


FIG. 2

U.S. Patent Apr. 4, 1995 Sheet 3 of 8 5,403,679

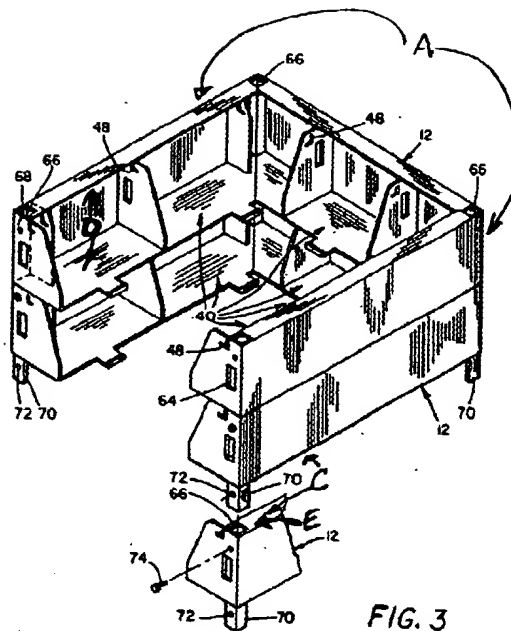


FIG. 3

With regards to claim 20, Stone discloses a battery box with two side walls (20) and two end covers (16). See Figure 1. The box further comprises:

(A) Two side wall which comprise an assembly of elementary interchangeable stacked modules.

(B) Each module comprises a pair of opposing wall elements.

(C) Each lower wall element supports an adjacent upper wall element.

(D) Each wall element is a U-section with arms pointing inwards toward and parallel with arms of an opposite wall element. Note that the "arms" are not of equal size, but are limited in that manner.

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(E)The upper arm of each lower wall element serving as a support for a lower arm of the corresponding adjacent upper wall element.

With regards to the limitation "opposing lower arms of opposing wall elements providing opposing support bases for opposing parallel edges of any battery supported there between", Stone does not show batteries supported between two wall elements. Thus, this conditional limitation is met.

***Claim Rejections - 35 USC § 103***

Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone, US Patent 5,403,679 for reasons of record.

With regards to claims 13-15, Stone discloses applicants' invention essentially as claimed, with the exception that Stone shows only one end wall (16) with the fixing lugs, (92), ventilation, and spaced openings for use with a forklift truck (86) as claimed. Note that elements 92 are described by Stone as "key latches", but are broadly considered to be "lugs". The use of a second end wall would have been obvious to one of ordinary skill in the art because Stone describes a purpose of the first end wall being "to provide an aesthetically desirable appearance". (Column 6, lines 32-37.) Thus, in order to provide an aesthetically desirable appearance having symmetry, one of ordinary skill in the art would provide a second end wall symmetrically arranged, and thus at the opposite end wall, to the one described by Stone.

With regards to claim 16, Stone describes applicants' invention essentially as claimed, with the exception that Stone does not describe a plurality of battery boxes. A

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plurality of battery boxes as disclosed by Stone would have been obvious to one of ordinary skill in the art because the duplication of parts (for a multiplied effect) has been shown to be obvious unless a synergistic effect can be shown. See *St. Regis Paper Co. v. Bemis Co., Inc.*, 193 USPQ 8, 11, (7th Cir.) 1977)

***Allowable Subject Matter***

Claims 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 19 is allowed.

The prior art of Stone fails to disclose a battery box in which *each* battery supported on a first edge by a base of a module of a first of the two side walls is also supported on a second edge, parallel to the first edge, by a base of a module of a second side wall.

***Response to Arguments***

Applicant's arguments filed 05 August 2002 have been fully considered but they are not persuasive. Applicants assert Stone differs from the present invention in that it shows a battery container made of several stacked elements, each of the stacked element having 3 sides and a bottom on which the batteries can rest. It is noted that the stacked elements disclosed by Stone comprise stacked pairs of wall elements., and the wall elements disclosed by Stone are mounted opposite each other. Applicants' claims

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which have been rejected do not limit the number of batteries between wall elements to only one.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol Chaney whose telephone number is (703) 305-3777. The examiner can normally be reached on Mon - Fri 8:00am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 703-308-2383. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Carol Chaney  
Primary Examiner  
Art Unit 1745

cc